

Today, the Department of Justice announced an historic settlement with TAP Pharmaceuticals in its case against the company for criminal conduct. TAP pharmaceuticals pleaded guilty to criminal fraud and will pay \$875 million in fines, the largest criminal fine ever in healthcare fraud prosecution.

“I ‘m very pleased by the Justice Department’s settlement with TAP Pharmaceuticals,” Rep. Pete Stark said. “Pharmaceutical companies have been bilking the American consumer and the federal government for years. It’s about time we hold them responsible for breaking the law.”

As part of today’s settlement, TAP has agreed to settle its federal civil False Claims Act liabilities and to pay the U.S. Government \$559 of the overall \$875 million settlement for filing false and fraudulent claims with the Medicare and Medicaid programs. The government accused TAP of engaging in fraudulent drug pricing schemes and sales and marketing misconduct. Among other allegations, the Government alleged that TAP advised physicians to charge Medicare an inflated average wholesale price (AWP) as a way to bribe doctors to prescribe Lupron, a prostate cancer drug.

TAP’s case is not an isolated one, however. According to the HHS Office of Inspector General, Medicare would have saved \$1.9 billion on just 24 drugs in 2000 if the drugs were reimbursed at prices available to the Department of Veterans Affairs. AWP abuse translates into unjustified, higher costs for Medicare, the taxpayers, and Medicare beneficiaries.

Rep. Stark continued: “Although today’s settlement is welcome news, the fraud that has been exposed is only the tip of the iceberg. Investigation after investigation has identified rampant abuse of the AWP. I hope this settlement is merely the beginning in a series of similar cases brought against pharmaceutical manufacturers.

“Today’s settlement provides impetus for implementing a long overdue substitute for the AWP. Such a substitute should include the adoption of an actual acquisition cost system of paying for pharmaceuticals with appropriate reimbursement for the cost of administering drugs; and requiring public disclosure of the actual selling price of drugs to Medicaid, Medicaid, and others, so that the market can work effectively.

Rep. Stark concluded: “This settlement is also important to the current debate over adding a prescription drug benefit to Medicare. Prescription drugs are an integral part of medical

treatment today and Medicare must be modernized to include them. However, Medicare should not and cannot afford to pay top dollar for drugs. That is why the AWP should be scrapped in favor of a pricing system that guarantees seniors affordable prescription drugs.”